



9-30 - 05

September 28<sup>th</sup>, 2005

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

#7

Re: PATENT No. 6,049,910 / Office of Petitions-Decision On Petition Letter / Aug. 03, 2005  
Issue Date: April 18, 2000, Application No. 09/294, 528, Filed: April 19, 1999,  
TITLE: Athletic Training Glove

Dear Commissioner for Patents,

Thank you for this reconsideration opportunity. To address the Analysis section which deals with the question of unavoidable delay on page 3 of the Decision On Petition letter mailed August 03, 2005 by the Office of Petitions, I have provided additional proof of why my delay in maintainence fee payments was unavoidable. (The additional documentation supports the documents already submitted as highlighted in the Background section, pages 1 and 2 of the Decision On Petition letter, Aug 3<sup>rd</sup>, 2005. ("See Exhibit # 2").

Regarding the Analysis points indicated I have addressed the issues as follows:

First: The date of November 9<sup>th</sup>, 2005 is the date I was legally able to make payments and purchases outside of my Chapter 13 restrictions. The sale of my property allowed me via the Bankruptcy Court to pay off all of my Secured Creditors, "Paid In Full" and all unsecured creditors via a monthly plan. Because all of my creditors were paid, the seller proceeds were legally mine and outside the confines of the Chapter 13 Bankruptcy's jurisdiction.

Second: Because of the sale of my home /realestate property and creditor payoffs "In Full", it was and is not necessary to file a motion with the Bankruptcy Court to get permission to pay an entity, like the Patent & Trademark office. I have attached the documents that provide proof of sale, seller proceeds amount and additional circumstances information which supports my claim of unavoidable delay. ("See Exhibit # 2 and additional Exhibits: # 3, # 4 and # 5.

Thank you for your time and consideration in this matter. I believe I have provided my burden of proof and I hope and pray that I am able to retain the patent I worked so hard to obtain.

Best Regards,

Andre' McCarter

*Andre' McCarter*

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01 FC:1599

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OFFICE OF PETITIONS



1 DECLARATION OF ANDRE McCARTER

2  
3 I, ANDRE MCCARTER declare as follows:

4 1. I am the Debtor in the above captioned bankruptcy  
5 proceeding which was initiated on July 24, 2003.

6 2. If called upon, I would testify competently and under  
7 oath that the within declaration is true and correct of my own  
8 personal knowledge, with the exception of those matters stated on  
9 information and belief, which I believe to be true and correct

10 3. My Chapter 13 Plan was confirmed on January 13, 2004.

11 4. Since the time the Chapter 13 Plan was confirmed I have  
12 experienced a reduction in income due to loss of work and reduced  
13 pay from present income sources.

14 5. Further my wife has not worked since June, 2004 for the  
15 following reasons:

16 a) She is a Note Taker at CSUN and does not work during  
17 the summer, to-wit: June, July and August.

18 b) At the present time my wife is ill and will not be  
19 returning to work until mid December, 2004.

20 5. I have sold my residence and upon close of escrow and  
21 pursuant to an Order of the this court, I will retroactively make  
22 the Plan payments from the proceeds of the sale, which are not  
23 property of the estate for the months of April, 2004 through and  
24 including November, 2004 in the sum of \$400.00 each. A true and  
25 correct copy of the Order Approving the Sale of Debtor's Property  
26 is attached hereto as Exhibit "3."

27

1       6. Beginning with the payment due on December 24, 2004, I  
2 will make payments of \$400.00 per month from earnings through and  
3 including the 36<sup>th</sup> month of the plan, to-wit: July, 2006.

4        7. As set forth on the amended Schedule I, my monthly income  
5 is derived from the following sources:

6 : a) L.A. Unified School District, Basketball Coach, Net  
7 Income \$236.63; See Exhibit "4" attached hereto.

b) Consulting work with GIV and GO, monthly fee  
\$2,500.00; See Exhibit "5" attached hereto.

10       8. Attached hereto as Exhibit "6" is an amended Income and  
11 Expense Schedule, which reflect the current income and monthly  
12 expenses of my household. See Exhibit "6" attached hereto.

13       9. Attached hereto as Exhibit "7" are copies of available  
14 bank statements, which show monthly deposits which reflect all  
15 income received during this period.

16        10. Contrary to the original Schedules re. Income and  
17 Expenses filed on August 7, 2003, my full time employment with  
18 Birmingham High School has ever materialized, causing me to rely  
19 on self employment income to satisfy both household and Plan  
20 payments.

21        11. I declare under penalty of perjury that the foregoing  
22 is true and correct and that this declaration was executed on the  
23 14 day of October, 2004, at Encino, California.

Ab initio  
ANDRE MCCARTER, Declarant

16027 Ventura Blvd Suite 60  
Encino, CA 91436  
Telephone No. (818) 981-0581  
Facsimile No. (818) 981-0026

ENTERED

SEP 28 2004

CENTRAL DISTRICT OF CALIFORNIA

Attorney for Debtor(s) (If applicable) Attorney's  
 Debtor in Pro Per State Bar I.D. No. 106282

SEP 28 2004

U.S. BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
Deputy Clerk

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA

List all names including trade names, used by Debtor(s)  
within last 6 years:

ANDRE MCCARTER

Chapter 13

Case No. SV03-16177GM

Social Security No. 181-42-4559 Debtor  
Social Security No. \_\_\_\_\_ Joint Debtor  
Debtor(s) EIN No. \_\_\_\_\_

RECEIVED CCP 9/1/2004  
DEBTOR'S MOTION FOR AUTHORITY TO  
SELL REAL PROPERTY, TRUSTEE'S  
COMMENTS AND ORDER THEREON  
(No Hearing Required)

Debtor's Chapter 13 Plan was confirmed on January 13, 2004

Debtor desires to sell the real property located at 18333 Hatteras Street #43, Tarzana, CA  
91356

and more particularly described in Exhibit "A" annexed hereto.

The sale price of the property is \$ 344,000.00 . The following are all of the encumbrances of record against the property:

See Exhibit "B" attached hereto

Creditors provided pursuant to confirmed plan, to be paid through escrow  
as identified on the Estimated Closing Statement attached hereto as  
Exhibit "C."

After payment of the foregoing encumbrances and all costs of sale, there will remain the sum of approximately  
\$ 86,849.00 .

The standing Chapter 13 Trustee is hereby authorized to make demand upon escrow for sufficient funds to pay off the debtor's  
Chapter 13 Plan. All funds remaining after payment of the above by escrow shall be paid directly to debtor.

The escrow is being processed by Breckenridge Escrow Company,  
18946 Ventura Blvd , Tarzana California,

telephone (818) 428-6323 , the escrow officer is Barbie Gibson

the escrow number is 52-1771 .

Wherefore, debtor prays for an Order authorizing the debtor to sell the above-described real property upon the terms and  
conditions set forth above

I declare under penalty of perjury that the foregoing is true and correct.

Clinton  
Debtor

Joint Debtor

**TRUSTEE'S COMMENTS**

Having reviewed the foregoing Motion for Authority to Sell Real Property, the undersigned Chapter 13 Trustee recommends that the court

- APPROVE the sale of property as proposed.
- There will be sufficient funds from the sale of this property to pay all allowed claims and this escrow can close without any further delay. *\*On Conditions below*
- Sale will pay less than 100% on allowed claims, but is for fair market value of property based on debtor's statement of affairs.
- DISAPPROVE the sale as proposed for the following reasons: \_\_\_\_\_

- Set for Hearing on Shortened Notice.

Dated: 9-21-04

S. Renee Sawyer for:

*"Elizabeth P. Reid, Chapter 13 Trustee"*

**ORDER**

Based upon foregoing motion and recommendation of the Chapter 13 Trustee, it is

ORDERED that debtor's Motion for Authority to Sale Real Property is:

- APPROVED on the terms and conditions set forth above; or
- DISAPPROVED; or
- Set for hearing on shortened notice for \_\_\_\_\_

Dated: SEP 28 2004

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OFFICE OF PETITIONS

**GERALDINE MUND**

United States Bankruptcy Judge

On the condition the Chapter 13 Trustee take statutory fees on the balance of claims paid through escrow; *The Chapter 13 Trustee will demand the balance due under the plan \$ 36,630.24;*

*The percent to unsecured creditors is increased up to 100%; the debtor will remain liable on all claim or debts; the attorney may place all funds received from escrow into a trust account until a final*

*the debtor attorney must immediately return any unapproved funds to debtor for him to do whatever is necessary to disqualify him from being a Chapter 13 Debtor.*

# Exhibit # 5

## Breckenridge Escrow

18946 Ventura Blvd.  
Tarzana, CA 91356  
(818) 428-6323 Fax (818) 428-6327

---

Andre McCarter  
c/o Touch Glove - ATTN: Andre McCarter  
18653 Ventura Blvd. #282  
Tarzana, CA 91356

Date : November 9, 2004  
Escrow No. : 52-1771

RE: **18333 Hatteras Street, #43, Tarzana, CA 91356**

We are pleased to inform you that the above referenced escrow was closed on **November 8, 2004** and we enclose the following for your records:

Our Check in the amount of **\$73,022.86** representing your proceeds.

Closing Statement.

Copy of 1099 Taxpayer Reporting Information. (This tax information is being furnished to the Internal Revenue Service.)

Any documents to which you are entitled will be forwarded to you directly from the appropriate governing party.

We hope this transaction was handled to your satisfaction, and that we may be of service to you again should you have the need for escrow services in the future.

Breckenridge Escrow

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Barbie Gibson  
Escrow Officer

CH

OCT 04 2005

**OFFICE OF PETITIONS**

**Breckenridge Escrow**

18946 Ventura Blvd.

Tarzana, CA 91356

(818) 428-6323 Fax (818) 428-6327

**Escrow No. 52-1771**  
**Reference: 18333 Hatteras Street, #43**  
**Tarzana, CA 91356**

**Closing Date: November 8, 2004**  
**Page 1 /CH**

**Seller  
CLOSING STATEMENT**

**SELLER:**  
Andre McCarter  
18653 Ventura Blvd. #282  
Tarzana, CA 91356

-- DEBITS -- -- CREDITS --

**Consideration:**

Total Consideration

344,000.00

**Adjustments:**

Closing Cost Credit to Buyer  
Nonrecurring closing cost cr.  
30 day SELLER RENTBACK

5,000.00  
2,881.18

**Prorations:**

Tarzana Tennis Townhomes HOA  
at \$ 200.00 per month  
From 11/08/04 to 12/01/04  
County Taxes  
at \$ 917.81 per 6 months  
From 11/08/04 to 01/01/05

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153.33

OCT 04 2005

270.24

**OFFICE OF PETITIONS****Payoff(s):**

Loan Payoff	59,374.16
Re: CHASE MANHATTAN MORTGAGE CORP.	
PAYOUT DEPARTMENT	
Interest @ 7.5%	3,443.21
From 02/01/04 To 11/09/04	
Late Charge(s)	264.18
Bankruptcy Atty Fees	1,525.50
Unapplied Balance Credit	
Property Inspection Fees	3.35
HOLD til able to verify demand	5,000.00
Loan Payoff (Princ. & Int)	46,886.91
Re: CHASE MANHATTAN - 2nd	
Legal Fees	800.00
HOLD for credit line closure	2,500.00
Loan Payoff	74,626.03
Re: Equity One	
Interest @ \$31.69/day	22,650.61
From 12/02/02 To 11/10/04	
Recording Fee	12.00
Corporate Advance	5,205.80
Attorney Fees	800.00
Late Charge(s)	1,085.45
Deferred Late Charges	823.10
Forebearance Suspense	
NSF Fees	50.00
ASSESSMENTS	3,550.03
Re: CALIFORNIA LIEN COLLECTIONS	
LLC	290.70
Interest @ 0	
From                  To 08/31/04	
Escrow Demand	75.00
Late Charge(s)	450.00
Forwarding/Statement	180.00
Lien	160.00
Release of Lien	30.00
Recording	27.00

(Continued on page 2)

**Breckenridge Escrow**

18946 Ventura Blvd.

Tarzana, CA 91356

(818) 428-6323 Fax (818) 428-6327

**Escrow No. 52-1771**  
**Reference: 18333 Hatteras Street, #43**  
**Tarzana, CA 91356**

**Closing Date: November 8, 2004**  
**Page 2 /CH**

**Seller  
CLOSING STATEMENT**

**SELLER:**

Andre McCarter  
 18653 Ventura Blvd. #282  
 Tarzana, CA 91356

	-- DEBITS --	-- CREDITS --
Postage	42.50	
Mgt. Co. Clctn Costs	195.00	

**Disbursements Paid:**

Pest Inspection	45.00
pd to: ANTIMITE TERMITE & PEST	
Transfer Fee	250.00
pd to: First Columbia Condo Managemen	
Document Fee	75.00
pd to: First Columbia Condo Managemen	
Transfer Fee	75.00
pd to: Tarzana Tennis Townhomes HOA	
Commission	17,200.00
Commission of \$ 17,200.00	
pd to: RE/MAX GRAND CENTRAL	
Home Warranty Plan	315.00
pd to: FIDELITY NATL. HOME WARRANTY	
Ref: Conf #A15882	
Document Compliance Fee	250.00
pd to: RE/MAX GRAND CENTRAL	
Professional Services Fee	250.00
pd to: Peter LaMonica	
Zone Disclosure Reports	133.50
pd to: PROPERTY I.D.	
Cert. of Compliance Filing Fee	15.00
pd to: LOS ANGELES DEPT WATER & POWER	
Messenger Fees	20.15
pd to: BRECKENRIDGE ESCROW	
Reimburse for 9A Filing	70.20
pd to: BRECKENRIDGE ESCROW	
Retrofitter	336.00
pd to: METRO RETROFITTING	
Disbursement to Trustee	3,116.22
pd to: Chapter 13 Trustee	

**Title Charges:**

Owner's Title Policy	1,174.50
Taxes: 2003-2004 plus penalty	6,831.19
Sub-Escrow Fee	62.50
County Document Transfer Tax	378.40
City Transfer Tax	1,548.00
1st half 2004-2005	917.81
Title Messenger Fee	9.45
Delivery Fee for Payoffs	20.90

**Escrow Fees:**

Escrow Fees	878.00
Order Demand Statement	150.00
Prepare Grant Deed	75.00
Order H.O. Assoc. Statement	75.00
Check Herewith	\$ 73,022.86
<b>Totals</b>	<b>\$ 345,226.39</b>
	<b>\$ 345,226.39</b>

(Continued on page 3)

**Breckenridge Escrow**

18946 Ventura Blvd.

Tarzana, CA 91356

(818) 428-6323 Fax (818) 428-6327

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**Escrow No. 52-1771**  
**Reference: 18333 Hatteras Street, #43**  
**Tarzana, CA 91356**

**Closing Date: November 8, 2004**  
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**Seller  
CLOSING STATEMENT**

**SELLER:**

Andre McCarter  
18653 Ventura Blvd. #282  
Tarzana, CA 91356

- - DEBITS - - - - CREDITS - -

**SAVE FOR INCOME TAX PURPOSES**

Upon receipt of the tax bill for the current year, please forward to Buyer at  
the following address:

23128 Yvette Lane  
Valencia, CA 91355